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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,047	07/31/2003	Eugene Albert Jacobs	03-105	8185

34590 7590 07/27/2004

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EXAMINER

LU, JIPING

ART UNIT PAPER NUMBER

3749

DATE MAILED: 07/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/630,047	Applicant(s) JACOBS, EUGENE ALBERT	
	Examiner Jiping Lu	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                                              |                                                                                        |
|----------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/24/04</u> . | 6) <input type="checkbox"/> Other: ____                                                |

## DETAILED ACTION

### *Specification*

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because the phrase "means" used in the abstract is improper. Correction is required. See MPEP § 608.01(b).

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobs (U. S. Pat. 3,980,072) in view of Lesage et al. (U. S. Pat. 6,334,411).

Jacobs shows a heater reclaimer 10, 16 for reclaiming heat radiated from a cooking surface and flue riser 20, 21. The heat reclaimer 10, 16 includes a radiator 16 with front, back

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panel and sides and top and bottom walls, a radiator inlet 31, a radiator outlet 34, a tank, a rigid water container (not numbered), a first inlet 41, a second outlet (not shown, it is inherent for the water container having an outlet for supplying water to other use, see col. 2, lines 3-17) and a circulator 41 which are arranged in the same manner as claimed. However, Jacobs does not show a pump 47 for circulating the fluid. Lesage et al. teaches a concept of using a pump 31 for circulating the water in the circuit 27 same as claimed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the circulator 41 of Jacobs with a pump as taught by Lesage et al. in order to improve the fluid circulation efficiency. It is inherent for the pump having a pump energizer means, i.e. power supply input.

5. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobs (U. S. Pat. 3,980,072) in view of West (U. S. Pat. 6,612,267).

Jacobs shows a heater reclamer 10, 16 for reclaiming heat radiated from a cooking surface and flue riser 20, 21. The heat reclamer 10, 16 includes a radiator 16 with front, back panel and sides and top and bottom walls, a radiator inlet 31, a radiator outlet 34, a tank, a rigid water container (not numbered), a first inlet 41, a second outlet (not shown, it is inherent for the water container having an outlet for supplying water to other use, see col. 2, lines 3-17) and a circulator 41 which are arranged in the same manner as claimed. However, Jacobs does not show a pump 47 for circulating the fluid. West teaches a concept of using a variable speed pump 90 for circulating the water in the circuit 92, 93, 94 same as claimed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the circulator 41 of Jacobs with a pump as taught by West in order to improve the fluid

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circulation efficiency. It is inherent for the pump having a pump energizer means to provide variable speed to the pump.

6. Claims 1-2, 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobs (U. S. Pat. 3,980,072) in view of Hughes et al. (U. S. Pat. 6,591,788).

Jacobs shows a heater reclamer 10, 16 for reclaiming heat radiated from a cooking surface and flue riser 20, 21. The heat reclamer 10, 16 includes a radiator 16 with front, back panel and sides and top and bottom walls, a radiator inlet 31, a radiator outlet 34, a tank, a rigid water container (not numbered), a first inlet 41, a second outlet (not shown, it is inherent for the water container having an outlet for supplying water to other use, see col. 2, lines 3-17) and a circulator 41 which are arranged in the same manner as claimed. However, Jacobs does not show a pump 47 for circulating the fluid and a cabinet for enclosing the tank. Hughes et al. teach a concept of using a pump 190 for circulating the water in the circuit (see Fig. 5) and a cabinet 10 for enclosing tank 14 same as claimed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the circulator 41 of Jacobs with a pump as taught by Hughes et al. in order to improve the fluid circulation efficiency and to provide the tank assembly of Jacobs with a cabinet as taught by Hughes et al. in order to protect the tank.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobs (U. S. Pat. 3,980,072) in view of Lesage et al. (U. S. Pat. 6,334,411) as applied to claim 1 above, and further in view of Hughes et al. (U. S. Pat. 6,591,788).

The heater reclamer of Jacobs as modified by Lesage et al. as above includes all that is recited in claim 5 except for a cabinet enclosing the tank assembly. Hughes et al. teach a water

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tank 14 which is enclosed by a cabinet 10 same as claimed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the tank assembly of Jacobs with a cabinet as taught by Hughes et al. in order to protect the tank.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobs (U. S. Pat. 3,980,072) in view of West (U. S. Pat. 6,612,267) as applied to claim 1 above, and further in view of Hughes et al. (U. S. Pat. 6,591,788).

The heater reclaimer of Jacobs as modified by West as above includes all that is recited in claim 5 except for a cabinet enclosing the tank assembly. Hughes et al. teach a water tank 14 which is enclosed by a cabinet 10 same as claimed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the tank assembly of Jacobs with a cabinet as taught by Hughes et al. in order to protect the tank.

*Allowable Subject Matter*

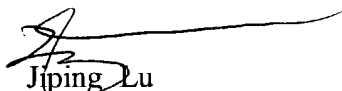
9. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jiping Lu whose telephone number is 703-308-2354. The examiner can normally be reached on Monday-Friday, 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on 703 308-1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jiping Lu  
Primary Examiner  
Art Unit 3749

J. L.